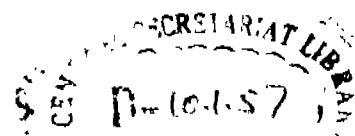


The Gazette of India

EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY



No. 75] NEW DELHI, MONDAY, DECEMBER 24, 1956

MINISTRY OF LAW

New Delhi, the 24th December, 1956

The following Acts of Parliament received the assent of the President on the 22nd December, 1956, and are hereby published for general information:—

THE STATE BANK OF HYDERABAD ACT, 1956

No. 79 OF 1956

[22nd December, 1956]

An Act to transfer the share capital of the Hyderabad State Bank to the Reserve Bank of India and to provide for its proper management and other matters connected therewith or incidental thereto.

WHEREAS in view of the reorganisation of States, it is necessary to provide for the devolution of the functions of the State Government of Hyderabad in relation to the Hyderabad State Bank on one single authority;

AND WHEREAS in order to secure the more efficient performance of banking and treasury functions by the Hyderabad State Bank as agent to the Reserve Bank of India and to enable the Reserve Bank of India to assist the Hyderabad State Bank, by the grant of subsidies or otherwise, to extend banking facilities to the public on a larger scale, it is expedient and necessary to provide for the transfer of the share capital of the Hyderabad State Bank to the Reserve Bank of India and for its proper management and for other matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title
and
commence-
ment.

1. (1) This Act may be called the State Bank of Hyderabad Act, 1956.

(2) It shall be deemed to have come into force on the 22nd day of October, 1956.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “appointed day” means the 22nd day of October, 1956;

(b) “Hyderabad Bank” means the Hyderabad State Bank re-named under sub-section (1) of section 3, as the State Bank of Hyderabad;

(c) “Hyderabad State Bank” means the Hyderabad State Bank constituted and incorporated under the Hyderabad State Bank Act, 1950F;

(d) “prescribed” means prescribed by regulations made under this Act;

(e) “Reserve Bank” means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934.

XIX of
1950 F.

2 of 1934.

CHAPTER II

RE-NAMING OF THE HYDERABAD STATE BANK AND TRANSFER OF ITS SHARE CAPITAL TO THE RESERVE BANK

Change of
name of
Hyderabad
State Bank.

3. (1) On the appointed day, the body corporate constituted by the Hyderabad State Bank Act, 1950F, and known as the Hyderabad State Bank shall be re-named as the State Bank of Hyderabad and shall, as from that day, carry on the business of banking and other business in accordance with the provisions of this Act and shall have power to acquire and hold property whether movable or immovable for the purposes of this Act and to dispose of the same.

XIX of
1950 F.

(2) The said body corporate shall consist of the persons who for the time being hold the office of Governor or Deputy Governor of the Reserve Bank and such other persons, if any, as the Central Government may, from time to time, appoint in this behalf.

(3) The change of name of the Hyderabad State Bank by sub-section (1) shall not affect any rights or obligations of that bank, or render defective any legal proceedings by or against it; and any legal proceedings which might have been continued or commenced by or against the Hyderabad State Bank by its former name may be continued by or against it by its new name.

4. (1) Unless otherwise directed by the Central Government by notification in the Official Gazette, the Head Office of the Hyderabad Bank shall be at Hyderabad.

Head Office
and branches
of Hyderabad
Bank.

(2) The Hyderabad Bank shall continue to maintain every branch and agency of the Hyderabad State Bank in existence immediately before the appointed day, and shall not discontinue any such branch or agency or establish any new branch or agency except with the previous approval of the Reserve Bank.

5. On the appointed day, all shares in the capital of the Hyderabad State Bank shall be transferred to, and shall vest in, the Reserve Bank free of all trusts, liabilities and encumbrances.

Transfer of
share capi-
tal of
Hyderabad
State
Bank to
Reserve
Bank.

6. (1) The Reserve Bank shall pay to the State Government of Hyderabad and every other person who, immediately before the appointed day, is registered as a holder of shares in the Hyderabad State Bank, as compensation for the transfer of such shares to the Reserve Bank under section 5, an amount calculated at the rate of ninety-four rupees four annas and six pies in Indian currency for each share of the face value of one hundred Osmania Sicca rupees.

Compensa-
tion to share-
holders of
Hyderabad
State Bank.

(2) Notwithstanding the transfer of the shares in the capital of the Hyderabad State Bank to the Reserve Bank, any share-holder who, immediately before the appointed day, was entitled to payment of dividend on the shares of the Hyderabad State Bank held by him shall be entitled to receive from the Hyderabad Bank all dividends declared by the Hyderabad State Bank in respect of his shares for any year which ended before the appointed day and remaining unpaid.

(3) Notwithstanding anything contained in the Hyderabad State Bank Act, 1350F, no such shareholder shall be entitled as of right to any dividend on the shares of the Hyderabad State Bank held by him in respect of any period before the appointed day for which that Bank had not declared a dividend:

XIX of
1350 F.

Provided that the Central Government may, in respect of any such period, authorise the payment of dividend at such rate as it may specify if it is satisfied that there is sufficient balance of profits available after such provisions and contributions for the purposes referred to in section 28 as the Reserve Bank considers necessary have been made.

(4) Nothing contained in sub-section (1) shall affect the rights *inter se* between the holder of any share in the Hyderabad State Bank and any other person who may have an interest in such share

and such other person shall be entitled to enforce his interest against the compensation awarded to the holder of such share but not against the Reserve Bank.

Certain officers of the Hyderabad State Bank to vacate office.

7. (1) Every person holding office as director (including the President and the managing director) or as deputy managing director, in the Hyderabad State Bank immediately before the appointed day, shall be deemed to have vacated that office on the appointed day, and notwithstanding anything contained in this Act or in any other law for the time being in force or in any agreement or contract, such person shall not be entitled to any compensation for the loss of office or for the premature termination of any agreement or contract relating to his employment, except such pension, compensation or other benefit, as the Hyderabad Bank may, with the previous approval of the Reserve Bank, grant to him having regard to what he would have received, if this Act had not been passed and if his employment had ceased on the appointed day in the ordinary course.

(2) Nothing in sub-section (1) shall be deemed to prevent the Hyderabad Bank from re-appointing or re-employing with the previous permission in writing of the Reserve Bank, the managing director or the deputy managing director of the Hyderabad State Bank on such terms and conditions as are agreed upon between him and the Hyderabad Bank and are approved by the Reserve Bank.

Special provisions regarding existing officers and employees.

8. (1) Notwithstanding anything contained in any law or contract of service or other document, no appointment made or promotion, increment in salary, pension or allowance or any other benefit granted to any person by the Hyderabad State Bank after the 19th day of December, 1954, and before the appointed day which would not ordinarily have been made or granted or which would not ordinarily have been admissible under the rules or authorisations of the Hyderabad State Bank, or of any provident, pension, or other fund in force before the 19th day of December, 1954, shall have effect or be payable or claimable from the Hyderabad Bank, or from any provident, pension or other fund or from any authority administering any such fund, unless the Reserve Bank has, by general or special order, confirmed the appointment, promotion or increment or has directed the grant of the pension, allowance or other benefit, as the case may be.

(2) Where any officer or other employee of the Hyderabad State Bank has, whether before or after the appointed day, received any amount by reason of any such appointment, promotion or increment or the grant of any such pension, allowance or other benefit, as is referred to in sub-section (1), which has not been confirmed or

sanctioned by the Reserve Bank in pursuance of the powers conferred on it by that sub-section, such officer or other employee shall be bound to refund such amount to the Hyderabad Bank and that bank shall be entitled to take all such steps as may be necessary for recovering such amount.

(3) Where any managing director, deputy managing director or other employee of the Hyderabad State Bank has, after the 19th day of December, 1954, and before the appointed day, been paid any sum by way of compensation or gratuity, the Hyderabad Bank shall be entitled to claim refund of any sum so paid if the payment is not confirmed by the Reserve Bank by general or special order.

(4) Notwithstanding anything contained in any law for the time being in force, the re-naming of the Hyderabad State Bank or the transfer of its share capital to the Reserve Bank shall not entitle any officer or other employees of that bank to any compensation to which he may be entitled under any such law, and no such claim shall be entertained by any court, tribunal or other authority.

CHAPTER III

CAPITAL OF THE HYDERABAD BANK

9. The authorised capital of the Hyderabad Bank shall be one crore of rupees: Authorised capital.

Provided that the Reserve Bank may, with the previous sanction of the Central Government, authorise an increase or reduction in the authorised capital of the Hyderabad Bank.

10. (1) Out of the amount in the capital account of the Hyderabad State Bank on the appointed day, Issued capital.

(a) a sum of fifty lakhs of rupees shall be retained as the issued capital of the Hyderabad Bank and such capital shall on that day stand allotted to the Reserve Bank in lieu of the compensation payable by it under section 6;

(b) any amount in excess of the sum of rupees fifty lakhs aforesaid shall on that day stand transferred to the Reserve Fund Account of the Hyderabad Bank.

(2) The Reserve Bank may, with the previous sanction of the Central Government, authorise an increase in the issued capital of the Hyderabad Bank, and such increased capital shall be provided by the Reserve Bank.

CHAPTER IV

MANAGEMENT OF THE HYDERABAD BANK

Management.

11. (1) The Reserve Bank may, from time to time, give directions and instructions to the Hyderabad Bank in regard to any of its affairs and business, and that bank shall be bound to comply with the directions and instructions so given.

(2) Subject to any such directions and instructions, the general superintendence and conduct of the affairs and business of the Hyderabad Bank shall, as from the appointed day, vest in a Board of Directors who may exercise all powers and do all such acts and things as may be exercised or done by that bank.

(3) The Board of Directors in discharging its functions under this Act, shall act on business principles, regard being had to public interest.

Composition of Board of Directors.

12. (1) The Board of Directors of the Hyderabad Bank shall consist of the following:—

(a) a managing director to be appointed by the Reserve Bank with the approval of the Central Government;

(b) an officer of the Central Government to be nominated by that Government;

(c) an officer of the Reserve Bank to be nominated by that bank;

(d) such number of other directors not exceeding three, to be nominated by the Reserve Bank with the approval of the Central Government.

(2) If a director nominated under clause (b) or clause (c) of sub-section (1) is, for any reason, unable to attend any meeting of the Board of Directors or any of its committees, the Central Government or the Reserve Bank, as the case may be, may depute any other person to attend the said meeting and such other person shall have the right to speak in and otherwise take part in the proceedings of the meeting and shall also be entitled to vote at such meeting.

Term of office of directors.

13. (1) The managing director shall hold office for such term not exceeding four years as the Reserve Bank may specify at the time of his appointment.

(2) A director nominated under clause (b) or clause (c) of sub-section (1) of section 12 shall hold office at the pleasure of the authority nominating him.

(3) A director nominated under clause (d) of sub-section (1) of section 12 shall hold office for three years:

Provided that he shall continue to hold office until his successor is duly nominated.

(4) A director relinquishing his office shall be eligible for re-appointment or re-nomination, as the case may be.

14. (1) A person shall be disqualified to be a director of the Hyderabad Bank, if—

Disqualifica-
tion for
directorship.

(a) he holds the office of director, provisional director, promoter, agent, or manager of any banking company or a banking company for the formation of which a prospectus has been issued; or

(b) he has been removed or dismissed from the service of Government; or

(c) he holds any office of profit under the Hyderabad Bank, other than the office of a managing director; or

(d) he is, or at any time has been adjudicated an insolvent or has suspended payment of his debts or has compounded with his creditors; or

(e) he is declared a lunatic or becomes of unsound mind; or

(f) he is or has been convicted of any offence involving moral turpitude.

(2) No two persons who are partners of the same firm or are directors of the same private company or one of whom is an agent of the other or holds a power of attorney from a firm of which the other is a partner may be directors at the same time.

(3) The appointment or nomination as a director of any person who is a member of either House of Parliament or the Legislature of a State shall be void unless within two months of the date of appointment or nomination, as the case may be, he ceases to be a member of Parliament or the Legislature of the State, and if any director is elected or nominated as a member of Parliament or the Legislature of a State, he shall cease to be a director as from the date of such election or nomination, as the case may be.

(4) In this section,—

(a) 'banking company' has the same meaning as in the Banking Companies Act, 1949;

(b) 'manager' means the chief executive officer of a banking company by whatever name called;

(c) 'private company' has the same meaning as in the Companies Act, 1956.

Vacation of
office of
directors.

15. If a director—

(a) becomes subject to any of the disqualifications mentioned in section 14, or

(b) resigns his office by giving notice in writing under his hand to the Reserve Bank, and his resignation is accepted by that bank, or

(c) is absent without leave of the Board of Directors for more than three consecutive meetings thereof,

his seat shall thereupon become vacant.

Chairman of
the Board of
Directors.

16. (1) The chairman of the Board of Directors shall be such one of the directors, not being the managing director, as the Reserve Bank may, with the approval of the Central Government, nominate.

(2) The chairman shall hold office for two years or until his successor is nominated:

Provided that the chairman shall, so long as he is a director, be eligible for re-nomination as chairman.

Managing
director.

17. The managing director—

(a) shall be a whole-time officer of the Hyderabad Bank;

(b) subject to the general control of the Board of Directors, shall exercise such powers and perform such duties as may be prescribed; and

(c) shall receive such salary and allowances as may be determined by the Reserve Bank.

Remunera-
tion of
directors.

18. A director, shall be paid for attending the meetings of the Board of Directors or of any of its committees and for attending to any other business of the Hyderabad Bank such fees and allowances as may be prescribed:

Provided that no fee shall be payable to the managing director or any other director who is an officer of the Central Government or the Reserve Bank.

Removal
from office
of director.

19. The Reserve Bank may, with the previous approval of the Central Government, remove from office—

(a) the managing director of the Hyderabad Bank, or

(b) a director nominated under clause (d) of sub-section (1) of section 12:

Provided that no such managing director or director shall be removed from office unless he has been given an opportunity of showing cause against the proposed removal.

20. If the managing director of the Hyderabad Bank is rendered incapable of discharging his duties by reason of infirmity or otherwise or is absent on leave or otherwise in circumstances not involving the vacation of his office, the Reserve Bank may appoint another person to discharge the duties of the managing director until the date on which the managing director resumes his duties.

Appointment of another person for discharging the duties of the managing director during his absence.

21. (1) Where any vacancy occurs before the expiry of the term of office of a director nominated under clause (d) of sub-section (1) of section 12, the vacancy shall be filled by nomination by the Reserve Bank with the approval of the Central Government.

Casual vacancies among directors.

(2) A person nominated under sub-section (1) shall hold office for the unexpired portion of the term of his predecessor.

22. (1) The Board of Directors shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

Meetings of the Board of Directors.

(2) The chairman of the Board of Directors shall preside at all meetings of the Board, but if for any reason, the chairman is unable to be present at a meeting, a director other than the managing director authorised by the chairman in writing in this behalf and in the absence of such authorisation, any such director elected by the directors present from among themselves shall preside at the meeting.

(3) All questions at a meeting of the Board of Directors shall be decided by a majority of the votes of the directors present, and in case of equality of votes, the chairman or any other director presiding at the meeting shall have a second or casting vote.

(4) A director who is directly or indirectly concerned or interested in any contract, loan, arrangement or proposal, entered into or proposed to be entered into by or on behalf of the Hyderabad Bank shall, at the earliest possible opportunity, disclose the nature of his interest to the Board of Directors and shall not be present at any meeting of the Board when any such contract, loan, arrangement or proposal is discussed, unless his presence is required by the other directors for the purpose of eliciting information and where any director is so required to be present, he shall not vote on any such contract, loan, arrangement or proposal.

(5) A copy of the minutes of every meeting of the Board of Directors together with copies of all connected papers shall be forwarded to the Reserve Bank as soon as possible.

23. (1) There shall be an executive committee of the Board of Directors consisting of the managing director and such other directors as may be prescribed.

Executive committee of Board of Directors.

(2) Subject to any regulations made under this Act, the executive committee may deal with any matter within the competence of the Board of Directors.

(3) The minutes of every meeting of the executive committee shall be laid before the Board of Directors as soon as possible after the meeting.

CHAPTER V

BUSINESS TO BE CARRIED ON BY THE HYDERABAD BANK

Hyderabad Bank to act as agent of the Reserve Bank.

24. (1) The Hyderabad Bank shall, if so required by the Reserve Bank, act as agent of the Reserve Bank at any place in India where it has a branch and where there is no branch of the banking department of the Reserve Bank, for—

(a) paying, receiving, collecting and remitting money, bullion and securities on behalf of any Government in India, and

(b) undertaking and transacting any other business which the Reserve Bank may, from time to time, entrust to it.

(2) The terms and conditions on which any such agency business shall be carried on by the Hyderabad Bank on behalf of the Reserve Bank shall be such as may be determined by the Reserve Bank after consultation with the Hyderabad Bank.

(3) The Hyderabad Bank may transact any business or perform any functions entrusted to it under sub-section (1) either by itself or through an agent approved by the Reserve Bank.

(4) Until a new arrangement is made under this section, the Hyderabad Bank shall continue to act as agent of the Reserve Bank at the same places where and for the same purposes for which, and on the same terms and conditions on which, the Hyderabad State Bank was acting as the agent of the Reserve Bank immediately before the appointed day.

Other business which the Hyderabad Bank may transact.

25. (1) Subject to the other provisions contained in this Act, the Hyderabad Bank may carry on and transact the business of banking as defined in clause (b) of sub-section (1) of section 5 of the Banking Companies Act, 1949, and may engage in such one or more of the other forms of business, as are specified in sub-section (1) of section 6 of the said Act. 10 of 1949.

(2) The Central Government may, after previous consultation with the Reserve Bank, by order in writing—

(a) authorise the Hyderabad Bank to do such other forms of business as the Central Government may consider necessary or expedient;

(b) direct that any form of business as is mentioned in the order, shall be carried on subject to such restrictions, conditions and safeguards as may be specified therein, or

(c) prohibit the Hyderabad Bank from carrying on or transacting any form of business which, but for this clause, it is lawful for the Hyderabad Bank to engage in.

(3) Subject to the provisions of sub-section (2), the Hyderabad Bank shall not engage in any form of business other than that referred to in sub-section (1).

26. (1) The Hyderabad Bank may, with the previous approval of the Reserve Bank, and shall, if so directed by the Reserve Bank with the previous approval of the Central Government, enter into negotiations for acquiring the business, including the assets and liabilities of any other banking institution. Acquisition of business of other banks.

(2) If the terms and conditions relating to the acquisition of any such banking institution are approved by the Board of Directors of the Hyderabad Bank and the directorate or management of the banking institution concerned and are also approved by the Reserve Bank, they shall be submitted to the Central Government, and, if sanctioned by that Government by order in writing, shall, notwithstanding anything to the contrary contained in this Act or the Companies Act, 1956, or the Banking Companies Act, 1949, or in any other law for the time being in force or in the memorandum or articles of association or other document regulating the constitution, of the banking institution, be operative and binding on the Hyderabad Bank and the banking institution as well as their shareholders and creditors, if any.

(3) On the day fixed in this behalf in the order of sanction made by the Central Government under sub-section (2), such assets and liabilities of the banking institution as are specified therein shall, by virtue of this section stand transferred to, and be vested in, or as the case may be, become the liabilities of, the Hyderabad Bank.

CHAPTER VI

RESERVE FUND ACCOUNTS AND AUDIT

27. (1) The Hyderabad Bank shall establish a Reserve Fund which shall consist of— Reserve Fund.

(a) subject to the provisions of sub-section (2), the amount in credit immediately before the appointed day, in the Reserve Fund Account of the Hyderabad State Bank, together with such amount as is transferred to it under sub-section (1) of section 10; and

(b) such further amounts as may be transferred to it by the Hyderabad Bank out of its annual net profit, before transferring the balance of profits to the Reserve Bank.

(2) The Hyderabad Bank shall, as soon as may be after the appointed day, consider whether any adjustments in its Reserve Fund Account are necessary by way of transfer towards provision for bad and doubtful debts, depreciation in assets, contingencies, reserve and such other purposes and make, with the previous approval of the Reserve Bank, the necessary adjustments.

Disposal of profits. 28. The Hyderabad Bank shall after making provision for bad and doubtful debts, depreciation in assets, contribution to staff and superannuation funds and for all other matters for which provision is necessary by or under this Act or which are usually provided for by banking companies, transfer the balance of its profits to the Reserve Bank.

Closing of annual accounts. 29. (1) The Hyderabad Bank shall cause its books to be closed and balanced on the thirty-first day of December in each year:

Provided that the Hyderabad Bank may, with the previous approval of the Reserve Bank and shall, when so directed by it,—

(a) not close or balance its accounts on the thirty-first day of December in any year, or

(b) close and balance its books on any other day of the year or for any period other than a calendar year.

(2) Where in pursuance of the proviso to sub-section (1), the Hyderabad Bank closes and balances its accounts on any day other than the thirty-first day of December or for any period more or less than a year, the provisions of this Act relating to the annual closing and audit of annual balance sheet and accounts shall apply to such closing and balancing of accounts *mutatis mutandis*.

Audit 30. (1) The accounts of the Hyderabad Bank shall be audited by an auditor duly qualified to act as an auditor of companies under sub-section (1) of section 226 of the Companies Act, 1956, who shall be appointed by the Reserve Bank, with the approval of the Central Government. ^{1 of 1956.}

(2) The auditor shall receive such remuneration as the Reserve Bank may fix.

(3) No director or an officer of the Hyderabad Bank shall be eligible to be its auditor during his continuance in office as such director or officer.

(4) The auditor shall be supplied with a copy of the annual balance sheet and profit and loss account, and a list of all books kept by the Hyderabad Bank, and it shall be the duty of the auditor to examine the balance sheet and profit and loss account with the accounts and vouchers relating thereto, and in the performance of his duties, the auditor—

(a) shall have, at all reasonable times, access to the books, accounts and other documents of the Hyderabad Bank;

(b) may, at the expense of the Hyderabad Bank, employ accountants or other persons to assist him in investigating such accounts, and

(c) may, in relation to such accounts, examine any director or any officer of the Hyderabad Bank.

(5) The auditor shall hold office for such term not exceeding one year as the Reserve Bank may fix at the time of his appointment; and if any vacancy arises before the expiry of the term of an auditor, the vacancy may be filled by the Reserve Bank, with the approval of the Central Government.

(6) The auditor shall on relinquishing office be eligible for re-appointment.

(7) The auditor shall make a report to the Reserve Bank upon the annual balance sheet and accounts, of the Hyderabad Bank, and in every such report he shall state—

(a) whether, in his opinion, the balance sheet is a full and fair balance sheet containing all the necessary particulars and is properly drawn up so as to exhibit a true and correct view of the affairs of the Hyderabad Bank, and in case he has called for any explanation or information, whether it has been given and whether it is satisfactory;

(b) whether or not the transactions of the Hyderabad Bank which have come to his notice have been within the competence of the bank;

(c) whether or not the returns received from the offices and branches of the Hyderabad Bank have been found adequate for the purpose of his audit;

(d) whether the profit and loss account shows a true balance of profit or loss for the period covered by such account; and

(e) any other matter which he considers should be brought to the notice of the Reserve Bank.

(8) The auditor shall forward a copy of the audit report to the Hyderabad Bank and to the Central Government.

(9) Without prejudice to the foregoing provisions, the Central Government may at any time appoint such auditors as it thinks fit to examine and report on the accounts of the Hyderabad Bank and such auditors shall have all the rights, privileges and authority in relation to the audit of the accounts of the Hyderabad Bank which an auditor appointed by the Reserve Bank has under this section.

Returns to
be furnished
by the
Hyderabad
Bank.

31. (1) The Hyderabad Bank shall furnish to the Reserve Bank—

(a) within two months from the date on which its accounts are closed and balanced, its balance sheet, together with the profit and loss account and the auditor's report, and a report by the Board of Directors, on the working of the Hyderabad Bank during the period covered by the accounts; and

(b) any other information relating to the affairs and business of the Hyderabad Bank which the Reserve Bank may require.

(2) The balance sheet and the profit and loss account of the Hyderabad Bank shall be signed by the managing director and a majority of the other directors, including the chairman.

CHAPTER VII

MISCELLANEOUS

Right of
Reserve Bank
to seek relief
in respect of
certain trans-
actions.

32. (1) Where the Hyderabad State Bank had at any time within two years before the appointed day,—

(a) made any payment to any person without or for insufficient consideration;

(b) made any loan or advance without adequate security or other safeguards;

(c) sold or disposed of any property of the bank without consideration or for an inadequate consideration;

(d) acquired any property or rights for an excessive consideration, in satisfaction of any loan or advance or other debt or otherwise;

(e) entered into or varied any agreement so as to require the payment of excessive consideration by the bank;

(f) relinquished any claim or any part thereof or entered into any compromise or released any security or part thereof;

(g) entered into any other transaction of such an onerous nature as to cause a loss to or impose a liability on the bank exceeding any benefit accrued to it;

and the payment, loan or advance, sale or disposal, acquisition, agreement or variation, relinquishment, compromise or release or other transaction was not proper or not reasonably necessary for the purpose of the business of the bank or was made with an unreasonable lack of prudence on the part of the bank, regard being had to the circumstances at the time, the Reserve Bank may apply for relief to the High Court for the State in which the Head Office of the bank for the time being is situated, in respect of such transaction, and all parties to the transaction (including the managing director, deputy managing director or any officer or other employee of the bank associated with the transaction) shall, unless the High Court otherwise directs, be made parties to the application.

(2) The High Court may make such order against any of the parties to the application as it thinks just, having regard to the extent to which those parties were respectively responsible for the transaction or benefited from it and to the circumstances of the case.

(3) Where an application is made to the High Court under this section in respect of any transaction and the application is determined in favour of the Reserve Bank, the High Court shall have exclusive jurisdiction to determine any claim outstanding in respect of the transaction.

(4) No application made by the Reserve Bank under this section shall be entertained after the expiry of one year from the appointed day.

33. (1) Subject to the provisions of any regulations made under this Act, the Hyderabad Bank may appoint such number of officers, advisers and employees as it considers necessary or desirable for the efficient performance of its functions and on such terms and conditions as it may deem fit.

Staff of the
Hyderabad
Bank.

(2) For the removal of doubts, it is hereby declared that the officers, advisers and employees of the Hyderabad Bank, in whatever capacity engaged, shall not be deemed to be officers, advisers or employees of the Reserve Bank for any purpose, unless otherwise provided in the contract or agreement of service of any such officer, adviser or employee.

34. The Hyderabad Bank may accept any subsidies offered by the Reserve Bank to meet—

Cost of
development
programme.

(a) the cost of any specific programme of development undertaken by the Hyderabad Bank with the approval of the Reserve Bank; and

(b) such losses or expenditure as may be approved by the Reserve Bank, with the consent of the Central Government.

Obligation as to fidelity and secrecy.

35. (1) The Hyderabad Bank shall observe, except as otherwise required by law, the practices and usages customary among bankers, and, in particular, it shall not divulge any information relating to or to the affairs of its constituents except in circumstances in which it is, in accordance with the law or practice and usage customary among bankers, necessary or appropriate for that bank to divulge such information.

(2) Every director, auditor, adviser, officer or other employee of the Hyderabad Bank shall, before entering upon his duties, make a declaration of fidelity and secrecy as in the form set out in the First Schedule.

Bar to liquidation of the Hyderabad Bank.

36. (1) No provision of law relating to the winding up of companies shall apply to the Hyderabad Bank nor shall it be placed in liquidation, save by order of the Central Government and in such manner as the Central Government may direct.

(2) In any such event, the Reserve Bank shall not be called upon to contribute any amounts to meet the liabilities of the Hyderabad Bank but the surplus assets thereof, if any, shall be transferred to the Reserve Bank.

Indemnity of directors.

37. (1) Every director of the Hyderabad Bank shall be indemnified by that bank against all losses and expenses incurred by him in or in relation to the discharge of his duties except such as are caused by his own wilful act or default.

(2) A director of the Hyderabad Bank shall not be responsible for any loss or expense caused to the bank by the insufficiency or deficiency of the value of or title to, any property or security acquired or taken on behalf of the bank or by the insolvency or wrongful act of any customer or debtor or by anything done in, or in relation to, the execution of the duties of his office or otherwise than for his wilful act or default.

Defects in the appointment or constitution not to invalidate acts or proceedings.

38. (1) No act or proceeding of the Board of Directors of the Hyderabad Bank shall be questioned on the ground merely of the existence of any vacancy in or, defect in the constitution of, the Board.

(2) All acts done by any person acting in good faith as a director of the Hyderabad Bank shall, notwithstanding that he was disqualified to be a director or that there was any other defect in his appointment, be deemed to be valid.

Exercise of powers and functions on behalf of the Reserve Bank.

39. Any powers, duties or functions conferred, imposed or entrusted by this Act on, or to, the Reserve Bank shall be exercised or performed by the Governor of the Reserve Bank or, in his absence, a Deputy Governor nominated under sub-section (3) of section 7 of the Reserve Bank of India Act, 1934, or, subject to such 2 of 1934.

conditions and limitations and in respect of such matters as the Governor of the Reserve Bank may specify, such officer or officers of the Reserve Bank as may be prescribed.

40. No suit or other legal proceeding shall lie against the Central Government or the Reserve Bank or any officer of the Central Government or the Reserve Bank for any damage caused or likely to be caused by, anything which is in good faith done or intended to be done in pursuance of this Act.

Protection of action taken under this Act.

41. (1) The Central Government may, in consultation with the Reserve Bank, by notification in the Official Gazette, make rules to give effect to the provisions of this act.

Power of Central Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner of, and the procedure for payment of, compensation under this Act, including the requirements subject to which the payment shall be made;

(b) the determination of persons to whom the said compensation shall be payable in all cases including cases where shares have been held by more than one person, or where they have been transferred before the appointed day, but the transfer has not been registered or where the shareholder is dead;

(c) the circumstances under which claims for payment of the said compensation from persons claiming through or under a shareholder may be entertained;

(d) the requirements to be complied with before receipt of the said compensation by a shareholder, whose share certificate has been lost, destroyed, mutilated or stolen;

(e) the requirements, subject to which information regarding the payment of the said compensation may be granted or refused and the conditions subject to which such information may be given.

(3) All rules made under this section shall be laid for not less than thirty days before both Houses of Parliament as soon as possible after they are made and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

42. (1) The Reserve Bank may, with the previous approval of the Central Government, and except in the case of the first regulations, in consultation with the Board of Directors of the Hyderabad Bank, make regulations not inconsistent with this Act and the rules made thereunder, to provide for all matters for which provision is

Power of the Reserve Bank to make regulations.

necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the powers and duties of the managing director of the Hyderabad Bank;

(b) the fees and allowances which may be paid to directors for attending any meetings of the Board of Directors or of its committees or for attending to any other work of the Hyderabad Bank;

(c) the time and place at which, and the manner in which, the business of the Board of Directors shall be transacted and the procedure to be followed at the meetings thereof;

(d) the constitution of the executive committee of the Board of Directors and the conditions and limitations subject to which the executive committee may exercise its powers and the procedure to be followed at the meetings thereof;

(e) the formation of any other committees of the Board of Directors and the delegation of powers and functions of the Board to such committees and the conduct of business in such committees;

(f) the delegation of powers and functions of the Board of Directors to the managing director or other directors or officers or other employees of the Hyderabad Bank;

(g) the conditions and limitations subject to which the Hyderabad Bank may appoint officers, advisers and other employees and fix their remuneration and other terms and conditions of service;

(h) the duties and conduct of officers, advisers and other employees of the Hyderabad Bank;

(i) the establishment and maintenance of pension, provident or other funds for the benefit of officers and employees or for the purposes of the Hyderabad Bank;

(j) the conduct and defence of legal proceedings by or against the Hyderabad Bank and the manner of signing pleadings;

(k) the provision of a seal for the Hyderabad Bank and the manner and effect of its use;

(l) the form and manner in which contracts binding on the Hyderabad Bank may be executed;

(m) the maximum amounts which may be advanced or lent or for which bills may be discounted by the Hyderabad Bank, the conditions under which advances may be made and the extent to which accounts may be overdrawn;

(n) the conditions subject to which advances may be made by the Hyderabad Bank to its directors or officers or the relatives of such directors or officers or to companies, firms or individuals with which or with whom such directors or officers or relatives are connected as partners, directors, managers, servants, shareholders or otherwise;

(o) the persons or authorities who shall administer any pension, provident or other fund constituted by the Hyderabad State Bank before the appointed day, for the benefit of the officers or employees, or for the purposes of the said bank; and the amalgamation of any such fund with any similar fund established by the Hyderabad Bank after the appointed day;

(p) the circumstances in which the specific approval of the Reserve Bank shall be required to the grant of loans and advances and investment of funds by the Hyderabad Bank, or to any contract, arrangement or proposal entered into or proposed to be entered into by the Hyderabad Bank;

(q) the preparation and submission to the Reserve Bank of statements of programmes of activities and financial statements of the Hyderabad Bank and the periods for which and the time within which, such statements and estimates are to be prepared and submitted;

(r) the person or persons in the Reserve Bank by whom any powers, duties or functions conferred, imposed or entrusted on or to the Reserve Bank under this Act may be exercised or performed;

(s) the periodical inspection of the affairs and business of the Hyderabad Bank by the Reserve Bank;

(t) the statements, returns and forms that are required for the purposes of this Act; and

(u) generally for the efficient conduct of the affairs of the Hyderabad Bank.

43. The enactments specified in the Second Schedule shall be amended in the manner directed therein and such amendments shall be deemed to have taken effect on the appointed day notwithstanding anything to the contrary contained in section 43 of the State Bank of Hyderabad Ordinance, 1956.

Amendment
of certain
enactments.

References to
Hyderabad
State Bank in
other laws.

44. On and from the appointed day, any reference to the Hyderabad State Bank in any law (other than this Act) or in any contract or other instrument shall, except as otherwise provided in any general or special order made by the Central Government, be deemed to be a reference to the Hyderabad Bank.

Saving.

45. Nothing in this Act shall be deemed to affect the power of the State Bank of India constituted under the State Bank of India Act, 1955, to acquire the business of the Hyderabad Bank in accordance with the provisions of section 35 of that Act, and where the business of the Hyderabad Bank has been so acquired, the bank shall, on such acquisition, stand dissolved and the provisions of this Act shall cease to apply thereto. 23 of 1955.

Repeal and
saving.

46. (1) The State Bank of Hyderabad Ordinance, 1956, is hereby repealed. 5 of 1956.

(2) Notwithstanding such repeal, anything done or any action taken (including any appointment, order, rule or regulation made or direction or instruction given) in the exercise of any powers conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the date on which such thing was done or action was taken.

THE FIRST SCHEDULE

[See section 35]

DECLARATION OF FIDELITY AND SECRECY

I do hereby declare that I will faithfully, truly and to the best of my skill and ability execute and perform the duties required of me as director, auditor, adviser, officer or other employee (as the case may be) of the State Bank of Hyderabad and which properly relate to the office or position held by me in the said bank.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the State Bank of Hyderabad or to the affairs of any person having any dealing with the said bank; nor will I allow any such person to inspect or have access to any books or documents belonging to or in the possession of the State Bank of Hyderabad and relating to the business of the said bank or to the business of any person having any dealing with the said bank.

THE SECOND SCHEDULE

[See section 43]

XIX of
1350F.

I. AMENDMENTS TO THE HYDERABAD STATE BANK ACT, 1350F.

1. In section 2, omit clauses (b) to (k).

2. In section 3, in sub-section (1), omit the words "for the purposes of this Act and for carrying on business in accordance with the provisions of this Act".

3. Omit sections 4 to 28 and Schedules I and II.

2 of 1934.

II. AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934.

1. In section 10, in clause (e) of sub-section (1), for the words "or any of its subsidiary banks", substitute the following, namely:—

"or any other bank notified by the Central Government in this behalf".

2. In section 17,—

(i) in clause (8A), for the words "or any of its subsidiary banks", substitute the following, namely:—

"or any other bank notified by the Central Government in this behalf".

(ii) after clause (14), insert the following, namely:—

"(14A) the granting of subsidies to the State Bank of Hyderabad for any of the purposes mentioned in section 34 of the State Bank of Hyderabad Act, 1956".

3. Section 45 shall be re-numbered as sub-section (1) thereof, and—

(i) in sub-section (1) as so re-numbered, for the proviso, substitute the following, namely:—

"Provided that nothing herein contained shall affect the provisions of any agreement subsisting on the 1st day of July, 1955, between the Bank and any other banking institution for the conduct of Government business or other matters."; and

(ii) after sub-section (1) as so re-numbered insert the following sub-sections, namely:—

"(2) Notwithstanding anything contained in sub-section (1), the Bank may employ or continue to employ as its agent—

(i) the Hyderabad Bank as defined in the State Bank of Hyderabad Act, 1956, at such places where, and for such purposes for which, the said bank was agent of the Reserve Bank immediately before the 1st day of November, 1956; and

(ii) any other banking institution notified by the Central Government in this behalf for the conduct of Government business or other matters at such places in India as may be approved by the Central Government.

(3) Notwithstanding anything to the contrary contained in any agreement between the Bank and the State Bank, it shall be lawful for the Bank to exclude from the operation of such agreement any place where any of the banking institutions referred to in sub-section (2) may have an office or branch."

4. In the Second Schedule, for the words "Hyderabad State Bank, Hyderabad (Deccan)", substitute "State Bank of Hyderabad"

III. AMENDMENTS TO THE BANKING COMPANIES ACT, 1949.

20 of 1949.

1. In section 39, for the words "the Reserve Bank or the State Bank of India, as the case may be", substitute the following, namely:—

"the Reserve Bank, the State Bank of India or any other bank notified by the Central Government in this behalf".

2. For section 51, substitute the following, namely:—

"51. Without prejudice to the provisions of the State Bank of India Act, 1955, or any other enactment, the provisions of sections 10, 13 to 15, 17, 19 to 21, 23 to 28, 29 [excluding sub-section (3)], 31, 34 to 36, 37, 45, 46 to 48, 50, 52 and 53 shall also apply; so far as may be, to and in relation to the State Bank of India or any other banking institution notified by the Central Government in this behalf as they apply to and in relation to banking companies:

Application
of certain
provisions
to the
State Bank
of India
and other
notified
banks.

23 of 1955

Provided that nothing contained in section 46 shall apply to any officer of the Central Government or the Reserve Bank

nominated as director of the State Bank of India or any other banking institution notified by the Central Government under this section.”.

THE MANIPUR (VILLAGE AUTHORITIES IN HILL AREAS) ACT, 1956

No. 82 OF 1956

[22nd December, 1956]

An Act to consolidate and amend the law relating to the constitution and functions of Village Authorities in the hill areas of the Union territory of Manipur.

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Manipur (Village Authorities in Hill Areas) Act, 1956. Short title,
extent and
commence-
ment.

(2) It extends to the whole of the hill areas of the Union territory of Manipur.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “Chief Commissioner” means the Chief Commissioner of Manipur;

(b) “Deputy Commissioner” means the Deputy Commissioner of Manipur and includes the Additional Deputy Commissioner thereof;

(c) “heinous offence” means—

(i) any of the following offences punishable under the Indian Penal Code, that is to say, any offence under Chapter VI, rioting, any offence under Chapter XII, murder, culpable homicide not amounting to murder, grievous hurt, kidnapping or abducting in order to subject a person to

slavery, buying or disposing of any person as a slave, habitual dealing in slaves, rape, robbery, dacoity, mischief by fire or explosive substance, and house breaking;

(ii) any offence punishable under the Indian Arms Act, 1878;

11 of 1878.

and includes any attempt, preparation or conspiracy to commit, and abetment of, any of the offences specified in sub-clause (i) or sub-clause (ii);

(d) "hill areas" mean such areas in the hill tracts of the Union territory of Manipur as the Chief Commissioner may, by notification in the Official Gazette, declare to be hill areas;

(e) "legal practitioner" includes a pleader, mukhtar or revenue-agent;

(f) "prescribed" means prescribed by rules made under this Act.

CHAPTER II

CONSTITUTION AND FUNCTIONS OF VILLAGE AUTHORITIES

**Constitution
of Village
Authorities.**

3. (1) For every village having twenty or more tax-paying houses there shall be a Village Authority consisting of—

(a) five members, where the number of tax-paying houses in the village is not less than twenty but is not more than sixty;

(b) seven members, where the number of tax-paying houses in the village is more than sixty but is not more than one hundred;

(c) ten members, where the number of tax-paying houses in the village is more than one hundred but is not more than one hundred and fifty;

(d) twelve members, where the number of tax-paying houses in the village is more than one hundred and fifty.

(2) The Chief Commissioner may, having regard to the general interests of the people of any village as also to the demand, if any, from the people of that village for an elected Village Authority, declare, by notification in the Official Gazette, that the village shall

have an elected Village Authority, and thereupon the members of the Village Authority of that village shall be elected in accordance with the provisions of this Act and the rules made thereunder.

(3) Where no declaration under sub-section (2) has been made in relation to any village the members of the Village Authority of that village shall be nominated by the Chief Commissioner.

(4) Where there is a Chief or Khulakpa in a village, he shall be the *ex officio* chairman of the Village Authority of that village; and where there is no such Chief or Khulakpa in the village, the chairman of the Village Authority of that village shall be elected by the members of the Village Authority from among themselves.

4. A person shall not be qualified to be chosen as a member of a Village Authority unless he—

(a) is a citizen of India;

(b) is not less than twenty-five years of age; and

(c) in the case of membership of an elected Village Authority, is registered in the electoral roll as a voter for the election of a member of the Village Authority.

Qualifications for membership of Village Authorities.

5. A person shall be disqualified for being chosen as, and for being, a member of a Village Authority,—

(a) if he is a member of any other Village Authority;

(b) if he is of unsound mind and stands so declared by a competent authority.

Disqualifications for membership of Village Authorities.

6. The term of office of members of a Village Authority shall be three years from the date appointed for its first meeting.

Term of office of members of Village Authorities.

7. The election of members of the Village Authority of a village shall be on the basis of adult suffrage, that is to say, every person who is a citizen of India and who is ordinarily resident in the village and is not less than twenty-one years of age on such date as may be fixed by rules made under this Act, shall be entitled to be registered as a voter at any such election.

Election of members of Village Authorities.

Explanation.—A person shall be deemed to be ordinarily resident in a village if he ordinarily resides in that village or owns, or is in possession of, a dwelling house therein.

8. (1) The Deputy Commissioner may remove any member of a Village Authority from his office—

(a) who is convicted of any non-bailable offence; or

Power to remove members of Village Authorities

(b) who refuses to act, or becomes incapable of acting, or is declared to be insolvent; or

(c) who has been declared by notification to be disqualified for employment in the public service; or

(d) who, without an excuse sufficient in the opinion of the Deputy Commissioner, absents himself from six consecutive meetings of the Village Authority; or

(e) who has been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct, if two-thirds of the total number of the members of the Village Authority at a meeting recommend his removal.

(2) No person who has been removed from his office under clause (a) or clause (c) of sub-section (1) shall be eligible for re-nomination or re-election except with the previous permission of the Chief Commissioner obtained by such person in the prescribed manner.

Resignation
of members.

9. A member of a Village Authority may resign his office by writing under his hand addressed to the chairman of the Authority but shall continue in office until his resignation has been accepted in a meeting of the Authority.

Filling of
casual
vacancies.

10. When the office of a member of a Village Authority becomes vacant by his removal, resignation or death, a new member shall be nominated or elected to fill the vacancy and shall hold office so long as the member whose place he fills would have been entitled to hold office if such vacancy had not occurred.

Bar to
interference
by courts
in election
matters.

11. No election of a member of a Village Authority shall be called in question in any court, and no court shall grant an injunction,—

(a) to postpone the election of a member of a Village Authority; or

(b) to prohibit a person, declared to have been duly elected under this Act, from taking part in the proceedings of a Village Authority of which he has been elected a member; or

(c) to prohibit members nominated or elected for a Village Authority from entering upon their duties.

Election
disputes.

12. (1) If a dispute arises as to the election of any member of a Village Authority, the matter shall be referred to the Deputy Commissioner who shall decide the same after giving notice to the parties concerned and after taking such evidence as may be produced.

(2) The order of the Deputy Commissioner may, within thirty days from the date thereof, be revised by the Chief Commissioner

whose decision shall be final and shall not be questioned in any court.

13. No act done or proceedings taken by a Village Authority under this Act shall be questioned on the ground merely of—

Validation of acts and proceedings.

(a) the existence of any vacancy in, or any defect in the constitution of, the Village Authority;

(b) any defect or irregularity not affecting the merits of the case.

14. Every Village Authority shall be a body corporate by the name of the village for which it is constituted and shall have perpetual succession and a common seal, and shall by the said name sue and be sued, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and do all other things necessary for the purposes of this Act.

Incorporation of Village Authorities.

15. Subject to the general superintendence and control of the Deputy Commissioner, the sub-divisional magistrate shall have control over all the Village Authorities within the local limits of his jurisdiction.

Control of Village Authorities by sub-divisional magistrate.

16. (1) Every Village Authority constituted under this Act shall, within the local limits of its jurisdiction, perform the following functions, namely:—

Functions of Village Authorities.

(a) it shall, to the best of its ability maintain law and order and for that purpose exercise and perform the powers and duties generally conferred and imposed on the police by or under the Police Act, 1861:

S of 1861.

Provided that a Village Authority shall not be deemed to be a police officer within the meaning of sections 25 and 26 of the Indian Evidence Act, 1872 or section 162 of the Code of Criminal Procedure, 1898;

I of 1872.

S of 1898.

(b) it shall cause to be arrested without any order from a magistrate and without a warrant—

(i) any person who is a vagrant or commits a heinous offence or who has been concerned in any such offence or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been so concerned,

(ii) any person against whom a hue and cry has been raised on the ground of his having been concerned in any heinous offence, whether such offence has been or is being committed within its jurisdiction or outside it.

(iii) any person for whose arrest a requisition has been received from a police officer; provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made or it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition,

(iv) any person designing to commit any heinous offence of which the Village Authority has knowledge, if the commission of offence cannot otherwise be prevented,

(v) any person who obstructs the Village Authority in the performance of its functions under this Act or rules made thereunder or a police officer while in the execution of his duty, and

(vi) any person who has escaped, or attempts to escape, from lawful custody:

Provided that where a Village Authority is unable to arrest an offender it shall forthwith report the matter to the sub-divisional magistrate who shall provide the Village Authority with such assistance as it requires:

Provided further that the Village Authority may pursue beyond the local limits of its jurisdiction any person who has committed a heinous offence or is a vagrant or of bad or suspicious character, and arrest such person outside the local limits of its jurisdiction with the consent of the Village Authority within the local limits of whose jurisdiction the person pursued is found;

(c) it shall give immediate information to the sub-divisional magistrate of every unnatural, suspicious or sudden death which may occur, and of any heinous offence which may be committed, within the local limits of its jurisdiction and shall keep the sub-divisional magistrate informed of all disputes which are likely to lead to a riot or serious affray; and

(d) it shall supply any information which any police officer or the sub-divisional magistrate or the Deputy Commissioner may require from it.

(2) No person who is arrested under this section shall be detained in custody without being informed, as soon as may be, of the grounds of such arrest.

(3) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the

journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

5 of 1898.

17. (1) Every person shall be bound to render, to a Village Authority performing the functions under this Act, all the assistance which he is bound to render to a police officer under section 42 of the Code of Criminal Procedure, 1898, and every person who refuses or neglects to comply with any requisition for such assistance shall be punishable with fine which may extend to—

Obligation to assist Village Authorities.

(a) two hundred rupees, where the sentence is passed by a village court; or

(b) five hundred rupees, where the sentence is passed by the court of a sub-divisional magistrate.

(2) Against an order passed under sub-section (1) an appeal shall lie—

(a) to the court of sub-divisional magistrate, where the order is passed by a village court;

(b) to the court of session, where the order is passed by the court of the sub-divisional magistrate,

within a period of thirty days from the date of such order or within such longer period as the appellate court may allow:

Provided that no appeal shall lie in any case in which a village court passes a sentence of fine not exceeding twenty rupees or in any case in which the court of a sub-divisional magistrate passes a sentence of fine not exceeding one hundred rupees.

18. The Chief Commissioner may at any time call for and examine the record of any proceeding before a Village Authority, village court, sub-divisional magistrate or Deputy Commissioner under section 17 for the purpose of satisfying himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed and after perusing the record set aside, modify or confirm such finding, sentence or order:

Power of Chief Commissioner to call for records of Village Authorities, sub-divisional magistrate or Deputy Commissioner.

Provided that where an order has been made by the court of session in an appeal preferred under sub-section (2) of section 17, the Chief Commissioner shall not interfere with such appellate order.

CHAPTER III

ADMINISTRATION OF JUSTICE BY VILLAGE AUTHORITIES

19. Whenever a Village Authority has been constituted for any village, the Chief Commissioner may, by notification in the Official

Constitution of village courts.

Gazette, appoint any two or more of the members of the Village Authority to be a village court during their term of office as members of the Village Authority.

Jurisdiction of village courts in criminal cases

20. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, the village court shall have jurisdiction concurrent with that of the criminal court within the local limits of whose jurisdiction the village is situated for the trial of all offences specified in the Schedule. 5 of 189.

How cases may be instituted.

21. (1) A case before a village court may be instituted by a complaint, made orally or in writing, to a member of the village court.

(2) If the complaint is made orally, the member shall record the name of the complainant, the name of the person against whom the complaint is made, the nature of the offence and such other particulars, if any, as may be prescribed, and shall direct the complainant to appear before the village court.

Power of village courts to dismiss or refuse to entertain complaint

22. (1) If upon the face of the complaint, or on examining the complaint, the village court is of opinion that the complaint is frivolous, vexatious or untrue, it shall dismiss the case by order in writing.

(2) If at any time it appears to the village court—

(a) that it has no jurisdiction to try the case, or

(b) that the offence is one for which the sentence which the court is competent to pass would be inadequate, or

(c) that the case is one which should not be tried by the court,

it shall direct the complainant to the proper court.

Dismissal of case for default.

23. If in any case before a village court the complainant fails to appear on the day fixed, or if in the opinion of the court he shows negligence in prosecuting his case, the court may dismiss the case for default, and such order of dismissal shall operate as an acquittal.

Proceedings preliminary to trial.

24. (1) If the complaint is not dismissed, the village court shall, subject to the provisions of section 53, by summons or otherwise require the accused to appear and answer the complaint.

(2) If the accused fails to appear or cannot be found, the court shall report the fact to the nearest magistrate, who may issue a warrant for the arrest of the accused and when arrested may forward him for trial to the village court or release him on bail to appear before it

(3) The village court shall, if possible, try the case on the day on which the accused appears or is brought before it; but if that is not possible, the village court shall release him on his executing a bond for a sum not exceeding two hundred rupees to appear before the court on any subsequent day to which the trial may be adjourned.

5 of 1898. 25. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, there shall be no appeal by a convicted person in any case tried by a village court:

Bar to appeal from the order of village courts, but power to order retrial.

Provided that the Deputy Commissioner or the sub-divisional magistrate, if satisfied that a failure of justice has occurred, may, of his own motion or on the application of the parties concerned, cancel or modify any order of conviction or of compensation made by a village court or direct the retrial of any case by a court of competent jurisdiction subordinate to him.

26. (1) A village court shall record its decision in writing and may sentence an offender convicted by it to pay a fine not exceeding two hundred rupees or in default to imprisonment for a term not exceeding one month.

Power of village courts to impose fine or to award compensation.

(2) When a village court imposes a fine under sub-section (1), it may, when passing the order, direct that whole or any part of the fine recovered shall be applied in payment of compensation for any loss or injury caused by the offence.

(3) When a person has been sentenced to imprisonment under sub-section (1) in default of payment of fine, if such fine be not paid within ten days of the passing of the sentence or within such further time, if any, as the village court may allow, the court may cause him to be arrested and may commit him to the nearest jail to serve his sentence:

45 of 1860- Provided that notwithstanding anything contained in the Indian Penal Code—

(a) the fine imposed by a village court shall not be realised from any person who has served his term of imprisonment under this section;

(b) the person serving his term of imprisonment shall be forthwith released, if the fine is paid before the expiry of the term of imprisonment:

Provided further that no woman shall be sentenced to imprisonment in default of payment of fine.

Power of village courts to release certain offenders after admonition or on probation of good conduct.

27. When any person is convicted by a village court of an offence punishable under section 26 and no previous conviction is proved against him, if it appears to the said court, regard being had to the age, character and antecedents of the offender and the circumstances in which the offence was committed, that it is expedient—

(a) that the offender should be released after due admonition, the village court may instead of sentencing him to any punishment, release him after due admonition; or

(b) that the offender should be released on probation of good conduct, the village court may, notwithstanding anything contained in the Code of Criminal Procedure, 1898, instead of sentencing him at once to any punishment, direct that he be released on his executing a bond for a sum not exceeding two hundred rupees to appear and receive sentence when called upon during such period not exceeding one year as the village court may direct, and in the meantime to keep the peace and be of good behaviour.

5 of 1898.

Power of village courts to permit compounding of offences.

28. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, the village court may allow the parties to compound any offence tried by it.

5 of 1898.

Power to transfer criminal cases.

29. The Deputy Commissioner or the sub-divisional magistrate, either on application made to him in this behalf, or on his own motion, may transfer any case from one village court to another or to any other court subordinate to him.

Jurisdiction of village courts in civil cases.

30. Notwithstanding anything contained in the Code of Civil Procedure, 1908, or in any other law for the time being in force, but subject to the provisions of section 31 and section 32, the village court and the ordinary civil court, within the local limits of whose jurisdiction the village is situated, shall have concurrent jurisdiction to try the following classes of suits, namely:—

5 of 1908.

(a) suits for money due on contracts;

(b) suits for the recovery of movable property or the value of such property;

(c) suits for compensation for wrongfully taking or injuring movable property; and

(d) suits for damages by cattle trespass;

when the value of the suit does not exceed five hundred rupees

Certain suits not to be tried by village courts.

31. No suit shall lie in any village court—

(a) on a balance of partnership account,

(b) for a share or part of a share under an intestacy or for a legacy or part of a legacy under a will,

(c) by or against the Government or public officers in their official capacity,

(d) by or against minors or persons of unsound mind,

(e) for the assessment, enhancement, reduction, abetment, apportionment, or recovery of rent of immovable property,

(f) for recovery of immovable property, or

(g) for enforcement or redemption of a mortgage of immovable property.

32. No suit shall lie in any village court, unless at least one of the defendants resides within the local limits of its jurisdiction at the time of the institution of the suit, and the cause of action has arisen wholly or in part within those limits.

Local limits of jurisdiction of village courts.

33. (1) A suit before a village court may be instituted by a petition made orally or in writing, and if the petition is made orally, the court shall record such particulars as may be prescribed.

How suits may be instituted.

(2) The plaintiff on instituting his suit shall state the value of the claim.

34. (1) If at any time the village court is of opinion that the suit is barred by limitation, the court shall, by order in writing, dismiss the suit.

Suits barred by limitation are not triable by village courts.

(2) If at any time it appears to the village court that it has no jurisdiction to entertain the suit, the court shall direct the plaintiff to the proper court.

35. If in any suit before a village court the plaintiff fails to appear on the date fixed or if in the opinion of the court he shows negligence in prosecuting his suit, the court may dismiss the suit for default:

Dismissal of suits for default.

Provided that a village court may restore a suit dismissed for default, if within thirty days from the date of such dismissal the plaintiff satisfies the court that he was prevented by sufficient cause from appearing on the date fixed.

36. If on receiving the petition the village court is satisfied that the trial of the suit may be proceeded with, it shall by summons or otherwise require the defendant to appear and answer orally or in writing the claim made in the suit.

Summons to defendants to appear and answer.

Ex parte decision.

37. If the defendant fails to appear and the village court is satisfied that he has received notice of the date fixed for hearing, the court may decide the suit *ex parte*:

Provided that any defendant against whom a suit has been decided *ex parte* may, within thirty days from the date of executing any processes for enforcement of the decision, apply orally or in writing, to the village court to set aside the order; and the court, if satisfied, that the defendant did not receive due notice of the date of hearing or was prevented by any sufficient cause from appearing on the date fixed, shall set aside the decision and shall appoint a day for proceeding with the suit.

No order to be set aside without notice to opposite party.

Power of village courts to determine necessary parties.

38. No decision or order of a village court shall be set aside under section 35 or section 37 unless notice in writing has been served by the village court on the opposite party in the prescribed manner.

39. (1) Subject to the provisions of clause (c) or clause (d) of section 31 the village court may add as parties to a suit any persons whose presence as parties it considers necessary for the proper decision thereof, and shall enter the names of such parties in the register of suits, and the suit shall be tried as between the parties whose names are entered in the said register:

Provided that when any party is added, notice shall be given to him and he shall be given an opportunity of appearing before the trial of the suit is proceeded with.

(2) In all cases where a new party appears under the proviso to sub-section (1) during the trial of a suit, he may require that the trial shall begin *de novo*.

Certain suits not to be tried by village courts.

40. No village court shall proceed with the trial of any suit in which the matter directly and substantially in dispute is pending for decision in the same court or in any other court in a previously instituted suit between the same parties or between parties under whom they or any of them claim, or has been heard and finally decided in a suit between the same parties, or between parties under whom they or any of them claim.

Decision of village courts.

41. When the parties or their agents have been heard and the evidence on both sides considered, the village court shall, by written order, pass such decree as may seem just, equitable and according to good conscience, stating in the decree the amounts payable as fees under section 45, and the amount, if any, paid to witnesses under section 51 and the persons by whom such amounts are payable.

42. A village court in ordering the payment of a sum of money or the delivery of any movable property may direct that the money be paid or the movable property be delivered, by instalments.

43. The decision of a village court in any suit shall be final as between the parties to the suits:

Decision of village court to be final ; but power to order retrial.

Provided that the district judge may on application of any party to the suit made within thirty days from the date of the decree of the village court, cancel or modify the decree or order of the village court or direct a retrial of the suit by the same or any other village court or by any other court subordinate to him if he is satisfied that there has been a failure of justice.

44. If the plaintiff or defendant in any suit dies before the suit has been decided, the suit may, subject to the provisions of clause (d) of section 31, be proceeded with at the instance of or against the legal representatives of the deceased plaintiff or defendant, as the case may be.

Death of parties.

45. (1) In all suits instituted in a village court a fee of one anna in the rupee shall be payable in advance by the plaintiff on the amount of the claim upto fifty rupees, and of half anna for every rupee of the claim above fifty rupees, and such fees shall not be paid to either party.

Fees.

(2) If the claim in the suit is decreed in full, the amount equal to the fee shall be realised from the judgment-debtor together with the amount decreed.

(3) If the claim in a suit is decreed in part, an amount equal to a proportionate part of the fee shall be realised from the judgment-debtor together with the amount decreed.

(4) Any amount realised under sub-section (2) or sub-section (3) shall be paid to the decree-holder.

46. (1) If the village court passing a decree is unable to effect satisfaction thereof, it shall grant the decree-holder a certificate to that effect stating the amount due to him on account of the decree and the amount due on account of fees under section 45.

Execution of decree.

(2) Any decree-holder wishing to execute a decree of a village court may apply to the court of the munsiff within the local limits of whose jurisdiction the village is situated and shall present with his application a certified copy of the decree of the village court; but no application for execution shall be entertained by the court of the munsiff,—

(a) unless the village court has certified that it is unable to effect satisfaction of the decree, and

(b) unless the application is made after the expiry of three months from the date of the decree.

(3) In executing a decree of the village court the court of the munsiff shall have the same powers and shall follow the same procedure as if it were executing a decree passed by itself.

Limitation
for execution
of decree or
order.

47. An application for execution of a decree of a village court made after the expiry of three years from the date of the decree or of any order under section 43 modifying any such decree, shall be dismissed, although limitation has not been pleaded:

Provided that where the application is made for execution of a decree or order to enforce payment of a sum of money or delivery of any movable property which the decree or order directs to be made at a certain date, the application may be made within three years from that date.

Procedure
before
village
courts.

48. (1) The provisions of—

(a) the Court Fees Act, 1870,

7 of 1870.

(b) the Code of Criminal Procedure, 1898, and

5 of 1898.

(c) the Code of Civil Procedure, 1908,

5 of 1908.

shall not apply to any trial or any criminal case or civil suit before a village court.

(2) The procedure to be followed by a village court in any criminal case or civil suit and in the enforcement of its decisions, sentences, decrees and orders, and in the method of forming a quorum shall be prescribed by rules made under this Act.

(3) The Indian Evidence Act, 1872 shall not apply in the trial of any case or suit by a village court but the village court shall observe as far as possible the principles underlying that Act.

Persons
who are
to preside
over village
courts.

49. (1) The village court shall be presided over by the chairman of the Village Authority if he is a member of the court.

(2) If the chairman of the Village Authority is absent from a sitting of the village court or if he is not a member of the court the court shall elect its own President.

(3) In the case of difference of opinion among the members of the court the opinion of the majority shall prevail and the decisions and orders of the court shall be expressed in terms of the views of the majority.

(4) In the case of an equality of votes the person presiding over the court shall have a second or casting vote.

50. No village court shall try any criminal case or any civil suit to or in which the Village Authority or any member thereof is a party or is interested.

Village courts not to try any case or suit in which the Village Authority or any member thereof is interested.

51. (1) Subject to the provisions of section 53 a village court may by summons or otherwise send for any person to appear and give evidence or to produce or cause the production of any document.

Attendance of witnesses.

(2) A village court shall refuse to summon a witness or to enforce a summons already issued against a witness, where in the opinion of the court the attendance of the witness cannot be procured without an amount of delay, expense, or inconvenience which under the circumstances of the case would be unreasonable.

(3) A village court shall not require any person living at a distance of five miles or more from the seat of the village court to give evidence or produce any document unless such sum of money be paid to him as appears to the court to be sufficient to defray his travelling and other expenses in passing to and from the court and for one day's attendance.

(4) If any person whom a village court summons by written order to appear or give evidence or to produce any document before it, fails to obey such summons, such person shall be guilty of an offence and the village court may take cognizance of such offence and may sentence any person convicted thereof to a fine not exceeding twenty-five rupees.

52. (1) The parties to criminal cases triable by a village court shall appear personally before the court:

Appearance of parties before village courts.

Provided that the village court, if it sees reason so to do, may dispense with the personal attendance of the accused and permit him to appear by agent.

(2) The parties to civil suits triable by a village court may appear by agent.

Explanation.—In sub-section (1) and sub-section (2), "agent" means a full-time servant or a partner or a relative of the party whom the village court may admit as a fit person to represent that party and who is authorised to appear and plead for such party.

(3) Notwithstanding anything contained in any law, legal practitioners shall not be permitted to practise before a village court.

53. No woman shall, against her will, be compelled to appear in person before a village court as an accused or as a party or as a witness.

Appearance of women.

Realisation
of fees,
fines, etc.

54. All fees and fines imposed, all sums decreed or compensation awarded and all sums due on bonds under this Act may be realised under orders of the village court in such manner as may be prescribed.

Registers
and re-
cords.

55. Every village court shall maintain such registers and records and submit such returns as may be prescribed.

Language
of village
courts.

56. All proceedings before a village court shall be in Manipuri.

CHAPTER IV

MISCELLANEOUS

Power to
make rules.

57. (1) The Chief Commissioner may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the preparation, revision and final publication of electoral rolls for election of members of a Village Authority and the particulars to be entered in such rolls;

(b) the preliminary publication of electoral rolls in the village to which they relate ;

(c) the manner in which and the time within which claims and objections as to entries in electoral rolls may be preferred and the authority by whom such claims and objections may be decided ;

(d) the nomination of candidates, the time and manner of holding elections and the manner in which votes shall be given ;

(e) any other matter relating to elections to Village Authorities or election disputes arising therefrom ;

(f) the regulation of the conduct of business of the Village Authorities and the number of members necessary to form a quorum ;

(g) the registers and records to be maintained and the returns to be submitted by Village Authorities and village courts and the particulars to be entered in such registers, records and returns;

(h) the procedure to be followed by a village court in the institution, trial and disposal of criminal cases and civil suits

and the number of members necessary to form a quorum of a village court ;

(i) the issue, service or execution of summons and other processes by village courts and the issue and service of notice by Village Authorities;

(j) the procedure for the transfer of criminal cases and civil suits from one village court to another village court or to any other court ;

(k) the procedure for the execution of decrees, orders and sentences of village courts ;

(l) the fees to be levied by village courts for copies of documents and the procedure to be followed in furnishing such copies; and

(m) any other matter which has to be or may be prescribed under this Act.

58. The Manipur State Hill Peoples (Administration) Regulation, 1947, in so far as it relates to the constitution and functions of Village Authorities and the administration of justice, both civil and criminal, by courts of Village Authorities, is hereby repealed : Repeal and savings.

Provided that the said repeal shall not affect—

(a) the previous operation of the said Regulation, or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the said Regulation, or

(c) any penalty, forfeiture or punishment in respect of any offence committed under the said Regulation, or

(d) any investigation, legal proceeding or remedy in respect of any right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed:

Provided further that subject to the above provisions, anything done or any action taken (including any appointment or delegation made or any notification, instruction or direction issued or any rule, regulation or form made or framed) under the said Regulation shall in so far as such thing or action is not inconsistent with the provisions of this Act, continue in force, and be deemed to have been done or taken under the corresponding provisions of this Act, unless and until it is superseded by anything done or any action taken under the provisions of this Act.

THE SCHEDULE

[See section 20]

OFFENCES TRIABLE BY A VILLAGE COURT

1. Offences under sections 24, 26 and 27 of the Cattle Trespass Act, 1871. 1 of 1871.
2. Offences under enactments (other than the Indian Penal Code and this Act) or any rules and bye-laws made thereunder which are punishable with fine only upto a limit of two hundred rupees.
3. Offences under section 34 of the Police Act, 1861. 5 of 1861.
4. Offences under the following sections of the Indian Penal Code, namely :— 45 of 1860.

sections 160, 178, 179, 269, 277, 289, 290, 294, 323, 334, 341, 352, 358, 426, 447, 448, 504 and 510; and when the value of the property in the opinion of the village court is not over two hundred rupees, sections 379 and 411.

THE CENTRAL EXCISES AND SALT (SECOND AMENDMENT) ACT, 1956

No. 81 OF 1956

[22nd December, 1956]

An Act further to amend the Central Excises and Salt Act, 1944.

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

Short title. 1. This Act may be called the Central Excises and Salt (Second Amendment) Act, 1956.

Insertion of new section 3A. 2. After section 3 of the Central Excises and Salt Act, 1944, the following section shall be inserted:— 1 of 1944

Emergency power of Central Government “3A. (1) If at any time, except when both Houses of Parliament are in session, the Central Government is satisfied that in respect of any excisable goods the duty of excise leviable thereon

should be increased and that circumstances exist which render it necessary that immediate action should be taken, the Central Government may, by notification in the Official Gazette, direct an amendment of the First Schedule to be made so as to provide for an increase in the duty of excise leviable: to increase duties of excise.

Provided that such increase shall not in the aggregate be more than fifty per cent. of the duty of excise fixed by an Act of Parliament as being leviable on the goods for the time being.

(2) Every such notification shall be laid before Parliament within seven days of its reassembly after the date of the notification and the Central Government shall seek the approval of Parliament to the notification by a resolution moved within a period of fifteen days beginning with the day on which the notification is so laid before it; and, if Parliament makes any modification in the notification or directs that the notification should cease to have effect, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, but without prejudice to the validity of anything previously done thereunder.

(3) Where, under any notification issued under this section the duty of excise leviable on any excisable goods is increased, for so long as the notification is in force there shall be levied and collected in respect of any like goods when imported into India as an addition to and in the same manner as the duty of customs leviable thereon under the First Schedule to the Indian Tariff Act, 1934, an amount which is equivalent to the additional duty of excise leviable in pursuance of any such notification.

(4) For the removal of doubts it is hereby declared that any notification approved by Parliament, whether with or without modifications, may be rescinded by the Central Government at any time by notification in the Official Gazette.

(5) This section shall cease to have effect on the thirty-first day of December, 1957, but such cesser shall not affect the continuance of any notification approved by Parliament and in operation at the time of such cesser."

K. V. K. SUNDARAM,

Secy. to the Govt. of India.

